Supreme Court, U. S.
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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1977

77-395

CITY OF PHILADELPHIA

v.

JOHN E. BULLION, *Appellant*

JURISDICTIONAL STATEMENT ON APPEAL FROM THE COMMONWEALTH COURT OF PENNSYLVANIA

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TABLE OF CONTENTS

	Page
Jurisdictional Statement—Opinion Below	1
Statement of Jurisdiction	1
Questions Presented by Appeal	3
Statement of the Case	4
Presentation of Substantial Federal Question:	
A. Jurisdiction Under 28 U.S.C. §1257(2)	8
B. Reasons Why the Federal Questions Presented Are Substantial	9
1. There Exists a Conflict of Decisions of Various Jurisdictions as to Whether a State May Legislate and Impose Its Long-arm Service Statutes Upon Individuals and Corporations Located Within a Federal Enclave Within the State	9
2. This Present Case Concerns the Interpretation of Provisions of a Federal Statute Which Have Never Been Construed by This Honorable Court	11
3. The Commonwealth Court of Pennsylvania Departed from the Required Manner of Interpretation of a Congressional Recession of Its Constitutional Powers	13
4. The Restrictions of Due Process for the Acquisition of Personal Jurisdiction Upon a Individual Were Violated in the Present Case	14
Appendices:	
Appendix "A"—Opinion of the Commonwealth Court of Pennsylvania dated February 8, 1977, in *City of Philadelphia v. Bullion*....	A1

Page

Appendix "B"—Opinion of the Common Pleas Court of Philadelphia County dated May 2, 1975, in *City of Philadelphia v. Bullion* A10

Appendix "C"—Order issued by the Supreme Court of Pennsylvania dated June 15, 1977 A17

Appendix "D"—Notice of Appeal to Commonwealth Court of Pennsylvania dated August 3, 1977 ..... A18

Appendix "E"—Title 42 Pa. C.S. §§8304, 8307, and 8309 ..... A19

Appendix "F"—The Buck Act, Title 4 U.S.C. §§106 and 108 ..... A22

TABLE OF CITATIONS

Cases:

Ackerley v. Commercial Credit Co., 111 F. Supp. 92 (N.J. 1953) 11

American Motorists Ins. Co. v. Starnes, 425 U.S. 637 (1976) 2

Berube v. White Plains Iron Works, Inc., 211 F. Supp. 457 (N.D. Maine 1962) 10

Dougherty & Co. v. Goodman, 294 U.S. 623 (1935) .. 14

Fiske v. State of Kansas, 274 U.S. 380 (1927) 2

Flexner v. Farson, 248 U.S. 289 (1919) 14, 15

Fort Leavenworth Railroad Co. v. Lowe, 114 U.S. 525 (1885) 9

Hancock v. Train, 426 U.S. 167 (June 7, 1976) ..13, 14

Hanson v. Denckla, 357 U.S. 235 (1958) 2, 14

Cases:

Page

Howard v. Commissioners of Sinking Fund of City of Louisville, 344 U.S. 624 (1953) 12

International Shoe Company v. Washington, 326 U.S. 310 (1945) 14, 15

Interstate Circuit, Inc. v. City of Dallas, 390 U.S. 676 (1968) 2

Kern-Limerich, Inc. v. Scurlock, 347 U.S. 110 (1954) 13

Knott Corporation v. Furman, 163 F.2d 199 (4th Cir. 1947), *cert. denied*, 322 U.S. 809 (1947) 11

Magee v. International Life Insurance Company, 355 U.S. 220 (1957) 14, 15

Mayo v. U.S., 319 U.S. 441 (1943) 13

Michigan-Wisconsin Pipe Line Co. v. Calvert, 347 U.S. 157 (1954) 2

Paul v. U.S., 371 U.S. 245 (1963) 13

Rosenblatt v. American Cyanamid Company, 86 S.Ct. 1, 15 L. Ed. 2d 39 (1965) 2

Standard Oil Co. v. California, 291 U.S. 242 (1934) .. 10

Stockwell v. Page Aircraft Maintenance, Inc., 212 F. Supp. 102 (M.D. Alabama S.D. 1962) 10

Swanson Paint Company v. Painters' Local Union No. 260, 391 F.2d 523 (9th Cir. 1968) 11

U.S. v. Mississippi Tax Commission, 412 U.S. 363 (1973) 9

U.S. v. Montreal Trust Company, 358 F.2d 239 (2d Cir. 1966), *cert. denied*, 384 U.S. 919 (1966) ... 15

TABLE OF CITATIONS—*(Continued)*

State Cases:	Page
Brennan v. Shipe, 414 Pa. 258, 199 A.2d 467 (1964)	10
Kiker v. Philadelphia, 346 Pa. 624, 31 A.2d 289, *cert. denied*, 320 U.S. 741 (1943)	5
Statutes and Constitutions:	
Federal:	
The Buck Act, 4 U.S.C. §§105-110	11, 12, 13
28 U.S.C. §1257(2)	2, 8, 9
28 U.S.C. §2103	3
U.S. Const. art. I, §8, cl. 17	4, 8
U.S. Const. amend. XIV	3
State:	
Act of March 5, 1925, P.L. 23 §1, 12 P.S. §672	2
Pa. R.C.P. 1017(b)(1)	1, 2
42 Pa. C.S. §8301, *et seq*	1, 2, 8
Other Authorities:	
Currie, *The Growth of the Long Arm: Eight Years Extended Jurisdiction in Illinois*, 1963 U. Ill. L.F. 533 (1963)	14
Murchison, *Waivers of Intergovernmental Immunity in Federal Environmental Statutes*, 62 Va. L. Rev. 1177 (1976)	13

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1977

City of Philadelphia

v.

John E. Bullion, *Appellant*

JURISDICTIONAL STATEMENT ON APPEAL FROM THE COMMONWEALTH COURT OF PENNSYLVANIA

OPINION BELOW

The opinion of the Commonwealth Court of Pennsylvania from which the present appeal is taken is reported at 368 A.2d 1375 and the official report of this opinion has not yet been reported. A copy of this opinion is attached hereto as Appendix "A". The opinion of the Common Pleas Court of Philadelphia County is unreported and is attached hereto as Appendix "B". The Supreme Court of Pennsylvania did not file an opinion with its order denying the Petition for Allowance of Appeal.

STATEMENT OF JURISDICTION

1. This suit was brought by the Appellee as an action for the collection of a debt in the Court of Common Pleas of Philadelphia County. Service of original process upon the Appellant as a defendant was made by the Sheriff of Philadelphia County pursuant to 42 Pa. C.S. §8301, *et seq.* at the Appellee's direction. The Appellant filed Preliminary Objections to the jurisdiction of the court pursuant to Pa.

R.C.P. 1017(b)(1). The judgment of the Court of Common Pleas was entered on May 2, 1975, and was appealed to the Commonwealth Court of Pennsylvania which entered the order to be reviewed on February 8, 1977. The Appellant filed a timely Petition for Allowance of Appeal in the Supreme Court of Pennsylvania, but that Petition was denied by Order entered on June 15, 1977, a copy of which is attached as Appendix "C". The Appellant filed the Notice of Appeal to this Honorable Court in the Commonwealth Court on August 3, 1977, a copy of which is attached hereto as Appendix "D".

2. The jurisdiction of the Supreme Court of the United States to review this decision by direct appeal is conferred by Title 28 U.S.C. §1257(2). The judgment in the present case under Pennsylvania law is final for the purposes of appeal under the Act of March 5, 1925, P.L. 23 §1, 12 P.S. §672. The following decisions sustained the jurisdiction of the Supreme Court of the United States to review the judgment on direct appeal in this case:

Rosenblatt v. American Cyanamid Company, 86 S.Ct. 1, 15 L. Ed. 2d 39 (1965);
Hanson v. Denckla, 357 U.S. 235 (1958);
Fiske v. State of Kansas, 274 U.S. 380 (1927);
Michigan-Wisconsin Pipe Line Co. v. Calvert, 347 U.S. 157 (1954);
Interstate Circuit, Inc. v. City of Dallas, 390 U.S. 676 (1968); and
American Motorists, Ins. Co. v. Starnes, 425 U.S. 637 (1976).

This case drew in question the validity of Title 42 Pa. C.S. §§8304, 8307 and 8309, and involves The Buck Act, Title 4 U.S.C. §§106 and 108. These two statutory provisions involved are lengthy and are attached hereto as Appendices "E" and "F", respectively.

In the event this Honorable Court does not consider an appeal to be the proper and appropriate procedure for review, Appellant requests that the papers and proceedings herein be regarded and acted upon as a Petition for Certiorari under Title 28 U.S.C. §2103.

QUESTIONS PRESENTED BY APPEAL

1. Did the Congress in passing The Buck Act, 4 U.S.C. §§105-110, clearly and specifically recede its Federal constitutional power of exclusive legislative jurisdiction over Federal enclaves under Article I, Section 8, Clause 17 to the state, thereby allowing the state to impose its long-arm statute upon a non-resident Federal employee who had worked upon a Federal enclave within the state?

2. In the case of an individual who is a non-resident of the state, who had no direct contact with the state other than travelling through it to a Federal enclave, and who had been a mere minor employee of the Federal government during the time he worked upon the Federal enclave, is the Due Process Clause of the Fourteenth Amendment of the United States Constitution violated by the state's seeking to obtain *in personam* jurisdiction upon the individual by use of the state's long-arm statute in a legal action arising out of his activities on the Federal enclave?

STATEMENT OF THE CASE

John Bullion, during the years 1971 through 1973, was employed by the Federal government as an engineering technician by the Ground Support Equipment Department of the Naval Air Engineering Center located at the Philadelphia Naval Base. This Naval Base was ceded by the Commonwealth of Pennsylvania to the United States government during the 1860's as an exclusive jurisdiction Federal enclave with the sole reservation to the Commonwealth of Pennsylvania of the right to serve the State's legal process within the enclave. During the time of his employment and to the present, Mr. Bullion was a resident of the State of New Jersey.

In February of 1975, the City of Philadelphia instituted a civil action against Mr. Bullion, alleging that due to his employment upon the Federal enclave, Mr. Bullion was assessed the City's Wage Tax which he failed to pay. The Plaintiff instructed the Sheriff of Philadelphia County to use the Pennsylvania long-arm statute, 42 Pa. C.S. §8301, *et seq.* to serve Mr. Bullion by mailing a copy of the Complaint to the Secretary of the Commonwealth of Pennsylvania and to Mr. Bullion's home address in the State of New Jersey.

Mr. Bullion filed in the Philadelphia County Court of Common Pleas, Preliminary Objections to the Complaint limited to the court's lack of personal jurisdiction over him. In these Preliminary Objections Mr. Bullion raised the issues that he was a mere employee and that his place of employment was upon an exclusive jurisdiction Federal enclave. On brief and argument to the court, he raised the Federal questions of the repugnancy to the Due Process Clause of the Fourteenth Amendment and to Article I, Section 8, Clause 17 of the United States Constitution of the application of the Pennsylvania long-arm statute to him.

In an opinion by the Honorable Stanley M. Greenberg of the Court of Common Pleas of Philadelphia County

dated September 2, 1975 (Appendix "B"), the Court of Common Pleas passed upon these two Federal questions as well as the state question of whether Mr. Bullion was "an individual doing business" under the terms of the State's long-arm statute. Judge Greenberg recognized the existence of the exclusive jurisdiction of the Federal government over the enclave but concluded that The Buck Act, 4 U.S.C. §106(a)(Appendix "F") inferred a recession of jurisdiction to the State to impose its long-arm statute upon persons who had been located within the enclave.

As to the Federal question of whether the exercise of the long-arm statute upon the Defendant was a violation of the Due Process of Law, Judge Greenberg relying upon the Pennsylvania Supreme Court's decision in *Kiker v. Philadelphia*, 346 Pa. 624, 31 A.2d 289, *cert. denied*, 320 U.S. 741 (1943), stated as follows:

> "It is clear from the foregoing that the Defendant, by his taking advantage of the privilege of working in Philadelphia, has shown the 'minimal contacts' necessary to satisfy the Due Process requirement. Further, in view of these contacts, it is quite reasonable for this Court to extend its jurisdiction over the Defendant and thus in no way offends the Court's traditional notions of fair play and substantial justice." (Appendix "B", A16).

Judge Greenberg's overruling of Mr. Bullion's Preliminary Objections were appealed as an appealable interlocutory order concerning personal jurisdiction to the Commonwealth Court of Pennsylvania. After briefing and oral argument before the court *en banc*, the Commonwealth Court, by the late Honorable Harry A. Kramer, affirmed the order of the lower court. Judge Kramer, in his preliminary statement of the matter before the Court, stated as follows:

> "Appellant's contention that use of the long-arm statute was improper in this instance to obtain in

personam jurisdiction is based upon the following three arguments: (1) the Commonwealth of Pennsylvania does not have legislative jurisdiction to require appellant to designate the Department of State as his agent for service of process as provided for in the Pennsylvania long-arm statute; (2) appellant was not an individual 'doing business' in Pennsylvania under the terms and intent of the statute; and (3) personal jurisdiction obtained by long-arm statute over a non-resident employed within a Federal enclave violates the Due Process Clause of the United States Constitution." Appendix "A", A2).

Judge Kramer's Opinion acknowledges that Mr. Bullion worked upon a Federal enclave over which the Commonwealth of Pennsylvania only reserved the power to serve its process within the enclave, but stated the following as the basis for his holding:

"Though insufficient by itself, this reservation of power combined with the power of the Federal Government receded to Pennsylvania by the Buck Act[7] permitting states and local authorities to tax personal income within Federal enclaves, gives the Commonwealth the legislative jurisdiction necessary to deem the Department of State as appellant's agent for service of process." (Appendix "A", A3).

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7. 4 U.S.C. §§105-110.

Judge Kramer, after discussing the independent State question, then addressed the Due Process of Law question. The Court stated:

"Appellant's final argument is that regardless of whether or not he is found to be 'doing business,' application of the Pennsylvania long-arm statute to obtain jurisdiction in this instance violates the Due

Process Clause of the United States Constitution." (Appendix "A", A7).

The Court then reviewed this question and determined that the Due Process of Law was not violated.

Mr. Bullion, after notification of the adverse determination of the Commonwealth Court of Pennsylvania, filed a Petition for Allowance of Appeal to the Supreme Court of Pennsylvania, Eastern District. Such an appeal is within the discretionary jurisdiction of the Supreme Court of Pennsylvania, and the Prothonotary of the Supreme Court of Pennsylvania entered an order on June 15, 1977, denying the Petition.

Presentation of Substantial Federal Question

A. Jurisdiction under 28 U.S.C. §1257(2).

The present appeal is from the affirmation by the Commonwealth Court of Pennsylvania of the Order of the Philadelphia County Court of Common Pleas overruling the Defendant's objection to the assertion of *in personam* jurisdiction by means of the State's long-arm statute, 42 Pa. C.S. §§8301-8311. The Supreme Court of Pennsylvania denied the Defendant a discretionary appeal from the Commonwealth Court's Order, thereby making the decision of the Commonwealth Court of Pennsylvania a final judgment of the highest court of the Commonwealth of Pennsylvania. This determination by the Commonwealth Court of Pennsylvania was a determination of an issue anterior to and separate from the merits, and which could not be reviewed again at the time of the determination on the merits. In the ruling by the Commonwealth Court, a final determination was made that the Defendant was personally within the jurisdiction of the courts of the Commonwealth of Pennsylvania.

The Defendant raised two Federal constitutional questions in his objection to jurisdiction in this case. The Defendant contended that the Commonwealth of Pennsylvania's imposing of its own legislative presumption of the designation of an agent for service upon a non-resident of the State employed upon a Federal enclave within the exterior boundaries of the State was violative of the Plenary Powers Clause of the United States Constitution, Article I, Section 8, Clause 17. Also, the Defendant contended that the imposition by the State of Pennsylvania of *in personam* jurisdiction on him as a non-resident of the State who had been employed by the Federal government upon a Federal enclave within the State, in an action for the collection of a tax assessed on his wages earned upon the Federal enclave, was violative of the Due Process Clause of the Four-

teenth Amendment of the United States Constitution. The Commonwealth Court of Pennsylvania reviewed both of these contended violations of the United States Constitution and determined that the Pennsylvania long-arm statute, as applied to the Defendant, was not violative of the United States Constitution.

It is, therefore, respectfully submitted that the present appeal is from a final judgment of the highest court of the Commonwealth of Pennsylvania in a case in which there was drawn into question the validity of a state's statute as applied to a defendant on the grounds that it was repugnant to the United States Constitution. Furthermore, the court made a decision in the favor of the validity of the state's statute. Thus, the present case is within the jurisdictional provisions of 28 U.S.C. §1257(2).

B. Reasons Why the Federal Questions Presented Are Substantial.

1. *There Exists a Conflict of Decisions of Various Jurisdictions as to Whether a State May Legislate and Impose Its Long-arm Service Statutes Upon Individuals and Corporations Located Within a Federal Enclave Within the State.*

This Honorable Court had long ago established that the reservation by a state of a right to serve process upon a Federal enclave established under Article I, Section 8, Clause 17 of the United States Constitution was limited to activities that took place outside of the enclave, and was not an authorization to regulate the activities upon the enclave. *Fort Leavenworth Railroad Co. v. Lowe*, 114 U.S. 525 (1885). In *U. S. v. Mississippi Tax Commission*, 412 U.S. 363, 377 (1973), this Court has recently reaffirmed its long-standing interpretation of the Plenary Powers Clause that the activities upon a Federal enclave are impervious to the regulatory legislation of the ceding state "as a territory of one of her sister states or a foreign land."

See, Standard Oil Co. v. California, 291 U.S. 242 (1934). Nevertheless, absent special legislative recessions of the power to legislate within the Federal enclave, there exists the conflict between the states and the circuits over whether a foreign individual or corporation that had acted within a Federal enclave is subject to the host state's long-arm or substituted service statutes.

In the present case the Commonwealth Court acknowledged that absent the separate recession by the United States Congress to the states, the reservation of the power to serve process *within* the Federal enclave was insufficient to allow imposition of the state's long-arm statute upon an individual who had only acted within the Federal enclave. (Appendix "A", A3). This is because the Supreme Court of Pennsylvania in *Brennan v. Shipe*, 414 Pa. 258, 199 A.2d 467 (1964), had previously so determined in a case concerning a motor vehicle accident upon a Federal enclave.

In addition to the present case on appeal and *Brennan v. Shipe, supra*, there are two Federal District Court cases that have also concluded that the states could not infringe upon the exclusive jurisdiction of the Congress over the Federal enclave by imposing its service statutes within the enclave. In *Berube v. White Plains Iron Works, Inc.*, 211 F. Supp. 457 (N.D. Maine 1962), the District Court held that the service was improper since the state had no legislative authority over the enclave. In *Stockwell v. Page Aircraft Maintenance, Inc.*, 212 F. Supp. 102 (M.D. Alabama, S.D. 1962), the Court was faced with a situation where service was made upon Federal land over which the state had concurrent jurisdiction, although the location was adjoining an exclusive jurisdiction Federal enclave. The Court held that if the substituted service had been attempted upon the Federal enclave, the service would have been improper; but, the service on land that was concurrent jurisdiction with the state was proper.

However, there also exists three Federal Court decisions that apparently conclude that the state can pierce

the Plenary Powers Clause to impose its state's substituted and long-arm service statutes. *Swanson Paint Company v. Painter's Local Union No. 260*, 391 F.2d 523 (9th Cir. 1968); *Ackerley v. Commercial Credit Co.*, 111 F. Supp. 92 (N.J. 1953); and *Knott Corporation v. Furman*, 163 F.2d 199 (4th Cir. 1947), *cert. denied*, 322 U.S. 809 (1947). All three of these cases concern foreign corporations doing business upon a Federal enclave. In each of these cases the courts found the foreign corporation had also made numerous and sufficient contacts with the state off of the enclaves involved.

Although the Appellant believes that the Pennsylvania court's holding that the Federal enclave may not be pierced by the state legislature for the purpose of imposing substituted service, there still exists a conflict among the various circuit and district courts concerning this Federal constitutional question. This Honorable Court should allow oral argument and briefing to finally resolve this substantial Federal question.

2. *This Present Case Concerns the Interpretation of Provisions of a Federal Statute Which Have Never Been Construed by This Honorable Court.*

In its attempt to breach the barrier of the Plenary Powers Clause of the United States Constitution, the Commonwealth Court of Pennsylvania was forced to interpret two provisions of The Buck Act, 4 U.S.C. §§105-110. (Appendix F) The Commonwealth Court realized that without a Congressional recession of powers to the State, the Commonwealth of Pennsylvania could not impose its long-arm statute upon the Appellant. (Appendix "A", A3). The Commonwealth Court had to interpret The Buck Act to determine whether it was the recession of powers that it felt was necessary. The Commonwealth Court interpreted the recession of the power to "levy and collect" income taxes "in the Federal area" as a further recession to the Commonwealth of the necessary legislative jurisdiction

to impose its long-arm statute in the Felderal enclave. By this inferred recession, the Commonwealth Court concluded that the long-arm statute did not violate the Plenary Powers Clause.

In addition, the Commonwealth Court recognized that there might be a conflict with the specific limitation of the recession of The Buck Act, 4 U.S.C. §108. Rather than interpreting this provision of The Buck Act strictly, the Commonwealth Court stated that there was no conflict with this provision since the State legislation "does not otherwise intrude upon or limit the exclusive jurisdiction of the United States on League Island." (Appendix "A", A4).

Sections 106 and 108 of The Buck Act have never been interpreted by any other court, including this Honorable Court, as to the extent and limitation of their recession of general legislative powers to the states over Federal enclaves. The only case in which this Honorable Court has previously reviewed §106 of The Buck Act was in *Howard v. Commissioners of Sinking Fund of the City of Louisville*, 344 U.S. 624 (1953). *Howard*, only determined that this Section of The Buck Act was intended to be a recession to the states of the power to "levy and collect the tax" within the Federal area. This Court did not interpret The Buck Act to provide further recessions to the states.

It is submitted that this Honorable Court is presented by this appeal with the substantial Federal question of the interpretation of the Federal statute. In the present appeal, the state court interpreted the Federal statute so as to increase the state's own powers over Federal areas. The interpretation of The Buck Act is a substantial Federal question which this Court should determine after briefing and oral argument.

3. *The Commonwealth Court of Pennsylvania Departed from the Required Manner of Interpretation of a Congressional Recession of Its Constitutional Powers.*

The Commonwealth Court concluded that the specific Congressional recession to the states in §106 of The Buck Act of the authority to "levy and collect" taxes within the Federal area "also grants the Commonwealth the necessary legislative jurisdiction to serve appellant according to the provisions of its long-arm statute." (Appendix "A", A4). It is the Appellant's contention that the Commonwealth Court improperly interpreted the Congressional recession provided for in §106(a) of The Buck Act.

This Honorable Court in *Hancock v. Train*, 426 U.S. 167 (June 7, 1976), was faced with a similar question of the interpretation of the extent of a Congressional recession of its exclusive legislative jurisdiction over Federal enclaves. This Court stated that Congress must make an affirmative declaration of its intention to allow the state to regulate an activity within a Federal enclave. *Mayo v. U. S.*, 319 U.S. 441 (1943). This Congressional declaration must be a clear and unambiguous mandate. *Kern-Limerich, Inc. v. Scurlock*, 347 U.S. 110 (1954); and *Paul v. U.S.*, 371 U.S. 245 (1963). A Congressional waiver of its constitutional obligations and powers must be determined under the cannon of strict construction and may not be inferred. Murchison, *Waivers of Intergovernmental Immunity In Federal Environmental Statutes*, 62 Va. L. Rev. 1177, 1181 (1976).

In the present case the Commonwealth Court not only failed to strictly construe the recession of §106(a) of The Buck Act but, in fact, inferred additional recessions that were not specifically mentioned. Furthermore, the Commonwealth Court totally failed to apply the specific Congressional limitations mandated by §108 of The Buck Act. It is submitted that this interpretation by the Commonwealth Court of Pennsylvania of a Federal statute concern-

ing Congress' constitutional powers was contrary to the enunciated rules of interpretation of *Hancock v. Train, supra*, and should be reviewed after briefing and oral argument.

4. *The Restrictions of Due Process for the Acquisition of Personal Jurisdiction Upon an Individual Were Violated in the Present Case.*

It has long been established that Due Process of Law requires a more "substantial connection" where a foreign individual is concerned as compared to a foreign corporation. *Flexner v. Farson*, 248 U.S. 289 (1919); and *Dougherty & Co. v. Goodman*, 294 U.S. 623 (1935). Although some commentators may contend this requirement has been abandoned during the course of the expansion of personal jurisdiction over foreign corporations, Currie, *The Growth of the Long Arm: Eight Years Extended Jurisdiction in Illinois*, 1963 U. Ill. L.F. 533, 560-561 (1963), such is not the case. *International Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945). In both *Magee v. International Life Insurance Company*, 355 U.S. 220, 223 (1957), and in *Hanson v. Denckla*, 357 U.S. 235, 253 (1958), this Court has cited *Dougherty & Co. v. Goodman, supra*, as still the viable law of Due Process. It is the Appellant's contention that the stricter test of Due Process concerning a foreign individual has not been met in the present case.

In *Hanson v. Denckla*, this Court stated that the expansion of *in personam* jurisdiction was not intended to herald the "demise of all restrictions on personal jurisdiction of state courts". U.S. at 251. In reviewing the restrictions of "minimum contacts" in cases concerning foreign corporations, this Court has required that the suit itself must arise out of an act performed or transacted within the forum state, *Magee v. International Life Insurance Company, supra* at 223, that there was a purposeful availment of the privilege of acting in the state, *International Shoe Co. v. Washington, supra* at 219, and that "traditional notions of fair play and substantial justice" must be met. *Id.* at 316.

When the facts of the present case are measured against these "restrictions", it is clear that Due Process has been violated, especially in light of the requirement of stricter scrutiny under the *Flexner-Dougherty & Co.* line of cases. The Appellant was a minor employee of the Federal Government who was not licensed or regulated in any manner by the Commonwealth of Pennsylvania. All of the Appellant's activities were performed upon a Federal enclave over which the state's laws and benefits were nonexistent. The suit itself arises out of the Appellant's earning of wages upon the Federal enclave. (The assessment of the tax is not an operative fact upon which jurisdiction can be based. *See, U. S. v. Montreal Trust Company*, 358 F.2d 239 (2d Cir. 1966), *cert. denied*, 384 U.S. 919 (1966)).

As for "fair play and substantial justice," the Appellant is a wage earner who lives outside of the forum state. Obviously, the Appellee, as a large municipal corporation, would be less burdened by pursuing its case in a foreign tribunal. In this case, the "severe disadvantage" is clearly upon the Appellant. *Magee v. International Life Insurance Company, supra* at 223. Furthermore, the City eventually must file in New Jersey a legal action against the Appellant and serve him again, if it desires to collect on its Pennsylvania judgment upon the Appellant's assets in New Jersey. (New Jersey has not adopted the Uniform Enforcement of Foreign Judgments Act). Thus, the Appellant may be required to defend two separate lawsuits when only one in his home state would be more reasonable and just and all that is necessary. One can only speculate why the City prefers to litigate this matter twice—once in its "home court" and then in the New Jersey courts. The placement of the burden upon the Appellant of defending in a foreign tribunal is unreasonable in the present case.

This appeal presents the question of the proper application of the restrictions on personal jurisdiction of state courts upon foreign individuals to comply with Due Process. Since this case concerns a mere wage earner, this Federal question is of great importance to all of the citizens of the United States of America and not just those persons actively involved in commerce. Without this Court's review of this matter, Pennsylvania may well have heralded the demise of all restrictions on personal jurisdiction over foreign individuals.

Respectfully submitted,

KENNETH E. AARON
Counsel for Appellant

Appendix A

CITY OF PHILADELPHIA
v.
JOHN E. BULLION,
Appellant

IN THE
COMMONWEALTH COURT
OF PENNSYLVANIA

No. 737 C. D. 1975

Before: Honorable James S. Bowman, President Judge
Honorable James C. Crumlish, Jr., Judge
Honorable Harry A. Kramer, Judge
Honorable Roy Wilkinson, Jr., Judge
Honorable Glenn E. Mencer, Judge
Honorable Theodore O. Rogers, Judge
Honorable Genevieve Blatt, Judge

Argued: April 6, 1976—Philadelphia

Opinion by Judge Kramer Filed: February 8, 1977

This is an appeal by John Bullion (appellant) from an order overruling his preliminary objections raising questions on whether the Philadelphia County Court of Common Pleas lacks jurisdiction over his person.[1] We affirm.

At all times during these proceedings the appellant has been a resident of the State of New Jersey. During the years 1971 through 1973 inclusive, appellant was employed as a civilian engineer technician by the United States Navy at the Naval Air Engineering Center located at the United States Naval Base on League Island. The City of Philadelphia (appellee) alleges that appellant earned during these years various sums of money which are subject to its wage tax.[2] The City further alleges that appellant has failed to pay the tax or to file tax returns for the years in question.

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1. This appeal was separated from the various other consolidated Philadelphia tax appeals because it raises unique questions by means of preliminary objections.

2. Philadelphia, Pa., Code §19-1500 et seq. (1973).

Appellee served appellant pursuant to the Pennsylvania long-arm statute.[3] Appellant, contending such service was improper, filed preliminary objections based upon the court's jurisdiction over his person. His objections were overruled by the lower court and appellant appealed.[4]

Appellant's contention that use of the long-arm statute was improper in this instance to obtain in personam jurisdiction is based upon the following three arguments: (1) the Commonwealth of Pennsylvania does not have legislative jurisdiction to require appellant to designate the Department of State as his agent for service of process as provided for in the Pennsylvania long-arm statute; (2) appellant was not an individual "doing business" in Pennsylvania under the terms and intent of the statute; and (3) personal jurisdiction obtained by long-arm statute over a nonresident employed within a Federal enclave violates the Due Process Clause of the United States Constitution.

Appellant's contention that the Commonwealth has no legislative jurisdiction to obligate him to designate the Department of State as his agent for receipt of process is without merit. When Pennsylvania ceded League Island to the United States, it also ceded exclusive legislative jurisdiction over the area to the Federal Government.[5] The Commonwealth, however, reserved concurrent jurisdiction for service of civil and criminal process within the Federal enclave.[6] Such reservations have been upheld in order "to prevent these lands from becoming a sanctuary for fugitives from justice for acts done within the acknowledged jurisdiction of the state." *Fort Leavenworth Railroad Co. v.*

3. 42 Pa. C.S. §§8301-8311.

4. We deem the order and the appeal justifiable under the 1925 Act because the preliminary objections challenge the in personam jurisdiction of the trial court. Act of March 5, 1925, P.L. 23, 12 P.S. §672.

5. U.S. Const. art. I, §8, cl. 17.

6. Act of March 28, 1945, P.L. 91, *as amended*, 74 P.S. §120.46 et seq.

Lowe, 114 U.S. 525 (1885). This language has been construed as authorizing states "to execute civil and criminal process for acts done within the states on lands ceded to the Federal Government." *In re Thompson*, 157 F. Supp. 93, (F.D. Pa. 1957), *aff'd, sub nom. United States ex rel. Thompson v. Lennox*, 258 F. 2d 320 (3d Cir. 1958), *cert. denied*, 358 U.S. 931 (1959). Though insufficient by itself, this reservation of power combined with the power the Federal Government receded to Pennsylvania by the Buck Act[7] permitting states and local authorities to tax personal income within Federal enclaves, gives the Commonwealth the legislative jurisdiction necessary to deem the Department of State as appellant's agent for service of process.

The Buck Act provides pertinently:

> (a) No person shall be relieved from liability from any income tax levied by any State, or by any duly constituted taxing authority therein, having jurisdiction to levy such a tax, by reason of his residing within a Federal area or receiving income from transactions occurring or services performed in such area; and *such State or taxing authority shall have full jurisdiction and power to levy and collect such tax in any Federal area within such State to the same extent and with the same effect as though such area was not a Federal area.* 4 U.S.C §106. (Emphasis added.)

It has been settled that this legislation grants appellee the power to "levy and collect" taxes on income earned by nonresidents employed on League Island. *Non-Resident Taxpayers Association v. Muncipality of Philadelphia*, 341 F. Supp. 1139, 1142 (D. N. J. 1971), *aff'd. mem.*, 406 U.S. 951 (1972); *Kiker v. City of Philadelphia*, 346 Pa. 624, 633, 31 A.2d 289, 294, *cert. denied*, 320 U.S. 741 (1943).

7. 4 U.S.C. §§105-110.

More important to resolving the issue before this Court, however, is that the Buck Act grants "full jurisdiction and power to levy and collect . . . as though such area was not a Federal area." For purposes of taxation, this language puts League Island within the acknowledged jurisdiction of Pennsylvania. It also grants the Commonwealth the necessary legislative jurisdiction to serve appellant according to the provisions of its long-arm statute. Therefore, not to permit service under the power reserved by the Commonwealth when it ceded this land to the Federal Government is to allow the very result the Supreme Court desired to avoid in *Fort Leavenworth, supra.*

Moreover, it has been held that this same language extends the legislative jurisdiction of the Commonwealth to insure enforcement of any permitted tax statute or ordinance. *See City of Philadelphia v. Konopacki,* — Pa. Commonwealth Ct. —, 366 A.2d 608 (1976); *Philadelphia v. Cline,* 158 Pa. Superior Ct. 179, 44 A.2d 610 (1945), *cert. denied,* 328 U.S. 848 (1946). In order for appellee to enforce its ordinance in a judicial action it must make service of process. The Buck Act's recession of power and jurisdiction therefore grants Pennsylvania permission to enforce its ordinance by serving appellant in the same manner it would serve any other nonresident working in the City of Philadelphia. This includes service by means of the State's long-arm statute.[8]

The Pennsylvania long-arm statute's designation of the Department of State as appellant's agent for service of process does not otherwise intrude upon or limit the exclusive jurisdiction of the United States on League Island.

8. Section 7 of the Act, 42 Pa. C.S. §8307 provides for service "upon the Department of State, by sending by registered or certified mail, postage prepaid, a true and attested copy of such process, with the fee required by law, and by sending to the defendant, by registered or certified mail, postage prepaid, a true and attested copy thereof. . . ."

Service in such a manner therefore does not conflict with the general limiting provision of the Buck Act.[9]

Appellant next argues that he does not fit within any of the provisions of the long-arm statute. Section 4 of the Act, 42 Pa. C.S. §8304, entitled "Doing business by individuals," provides for jurisdiction over individuals who have done business in the Commonwealth.

> [A]ny nonresident of this Commonwealth who . . . shall have done any business in this Commonwealth . . . shall be conclusively presumed to have designated the Department of State as his agent for the receipt of service of process . . . if and only if at the time the cause of action accrued or the harm or financial loss occurred, [he] shall have been doing business within this Commonwealth. . . . *Bork v. Mills,* 458 Pa. 228, 329 A.2d 247 (1974).

Appellant contends that an employe does not qualify as an "individual" as intended under the Act. He argues that an employe does not act alone but that his actions are in conjunction with his employer. Alternatively, appellant argues that regardless of whether or not he qualifies as an individual, the services he rendered do not constitute "doing business" as was defined and meant under the Act. We cannot agree with either contention.

This cause of action arose from appellant's activities of working and earning income within the City of Philadelphia during the years in question. *See Kiker, supra.* The action of coming into Philadelphia daily to work at an employment was on appellant's behalf as an individual and

9. 4 U.S.C. §108 provides:

The provisions of sections 105 to 110 of this title shall not for the purposes of any other provision of law be deemed to deprive the United States of exclusive jurisdiction over any Federal area over which it would otherwise have exclusive jurisdiction or to limit the jurisdiction of the United States over any Federal area.

not on the behalf of his employer. *See generally, Miller v. American Telephone & Telegraph Company*, 394 F. Supp. 58, 62 (1975), *aff'd.*, 530 F.2d 964 (1976). For this reason appellant should be considered an "individual" as was meant to be included under the Pennsylvania long-arm statute.

It still must be answered, however, whether appellant's actions of coming into Philadelphia to work as an employe qualifies as "doing business" within the Commonwealth. Two of the ways in which "doing business" is defined in the statute under Section 9 of the Act, 42 Pa. C.S. §8309 are:

> . . . .
>
> (1) The doing by any person in this Commonwealth of a series of similar acts for the purpose of thereby realizing pecuniary benefit or otherwise accomplishing an object.
>
> (2) The doing of a single act in this Commonwealth for the purpose of thereby realizing pecuniary benefit or otherwise accomplishing an object with the intention of initiating a series of such acts.

The intent of the statute as conveyed by this language is to reach those people actuated by a profit motive, who act in Pennsylvania for their "pecuniary benefit."

Appellant argues that the compensation he received for his services as an employe cannot be considered a "pecuniary benefit." This phrase has been defined as "such things only as can be valued in money."[10] In *Hays' Estate v. Commissioner of Internal Revenue*, 181 F.2d 169, 171 (5th Cir. 1950), which involved a real estate transaction for Federal estate tax purposes, the court stated: "A pecuniary benefit means an increase in one's net worth by the receipt of money or property." The receipt of wages certainly increases one's net worth.

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10. Black's Law Dictionary 1288 (4th ed. 1951).

Appellant's reliance on *Branch v. Foort*, 397 Pa. 99, 152 A.2d 703 (1959) and *Sharp v. Valley Forge Medical Center*, 422 Pa. 124, 221 A.2d 185 (1966) is misplaced. There our Supreme Court held that for purposes of effecting service, a person's place of employment was not the same as his place of business. Such an interpretation insures that a defendant will receive notice of a complaint where he is employed at a large complex. Service here was made by registered mail, return receipt requested. Notice is therefore established. This writer does not otherwise read the above holdings as lending themselves to the question of whether working as an employe qualifies as "doing business" as defined under the State's long-arm statute. We conclude that appellant, by his activities, was doing business in Pennsylvania as defined and meant under the long-arm statute.

Appellant's final argument is that regardless of whether or not he is found to be "doing business," application of the Pennsylvania long-arm statute to obtain jurisdiction in this instance violates the Due Process Clause of the United States Constitution. The standard to be applied in determining such a violation was set forth in *International Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945) and states:

> [D]ue process requires only that in order to subject a defendant to a judgment in personam, if he be not present within the territory of the forum, he have certain minimum contacts with it such that maintenance of the suit does not offend "traditional notions of fair play and substantial justice."

Pennsylvania courts have established the following guidelines to determine whether the requisite "minimum contacts" are present.

> First the defendant must have purposely availed itself of the privilege of acting within the forum state

> thus invoking the benefits and protections of its laws. . . . Secondly, the cause of action must arise from defendant's activities within the forum state. . . . Lastly, the acts of the defendant must have a substantial enough connection with the forum state to make the exercise of jurisdiction over it reasonable. . . . *Proctor & Schwartz, Inc. v. Cleveland Lumber Co.*, 228 Pa. Superior Ct. 12, 19, 323 A.2d 11, 15 (1974).

Applying this test to appellant's situation, we hold that the requisite "minimum contact" is present.[11]

It is settled that for purposes of this ordinance the Federal enclave of League Island is within the City of Philadelphia. *Kiker, supra.* Therefore, because appellant came to work daily during the years in question, he sufficiently availed himself of the privilege of acting within the forum state. It has similarly been decided that nonresident employes on League Island invoke benefits and privileges from the City of Philadelphia. *Kiker, supra*; *Non-Resident Taxpayers Association, supra.* The first test as enunciated in *Proctor, supra*, is therefore satisfied.

Appellant contends that the cause of action did not arise from his activities within the forum state as required by the second test. As discussed previously, appellant worked and earned wages in Philadelphia, incurring wage tax liability under the City's ordinance. His actions occurred therefore within the forum state. Furthermore, his actions of failing to file a return or pay the wage tax also occurred in the forum state.[12] The filing of the return and payment of the tax was to be done at City Hall Annex in Philadelphia. The failure to do this required legal act es-

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11. Though the standard was established to find "minimum contacts" for a corporate defendant, these same standards are applicable to individual defendants if applied cautiously. *Stepnowski v. Avery*, 234 Pa. Superior Ct. 492, 340 A.2d 465 (1975).

12. Philadelphia may require this of appellant because of its taxation power over income earned within its geographic jurisdiction.

tablishes this location as the situs. *See In re Thompson supra.*

The final test in determining whether "minimum contacts" exist is whether the defendant's actions have a substantial enough connection with the forum state to make the exercise of jurisdiction over him reasonable. Appellant admits that the City of Philadelphia has a great interest in this action for the collection of its wage tax. Appellant's employment during the years in question was also continuous. In addition, his actions were actuated by a profit motive and for his "pecuniary benefit." *Compare Action Industries, Inc. v. Weideman*, 236 Pa. Superior Ct. 447, 455-7, 346 A.2d 798, 802-3 (1975) *with Stepnowski v. Avery, supra*, note 6. Appellant's activities have a substantial connection with the forum state. It is reasonable therefore for Pennsylvania to exert jurisdiction over the appellant.

There is also no evidence which suggests that defendant is incapable of defending this action in Philadelphia or that he is more than slightly inconvenienced. Indeed, this cause of action arose because appellant came to Philadelphia daily for at least three years for purposes of his employment. We do not believe in this instance that the traditional notions of "fair play or substantial justice" are offended by the exercise of jurisdiction over the appellant. We affirm.

/s/

Harry A. Kramer, Judge

Appendix B

CITY OF PHILADELPHIA
v.
JOHN E. BULLION

COURT OF COMMON PLEAS
FEBRUARY TERM, 1975
No. 4114

Opinion

GREENBERG, J. Dated: September 2, 1975

Defendant John E. Bullion filed Preliminary Objections to the Complaint of the City of Philadelphia, questioning this Court's jurisdiction over him personally, and the validity of the service of process upon him. Defendant's appeal is from this Court's overruling of said Preliminary Objections.

The City of Philadelphia instituted this action in Assumpsit in February of 1975, to recover City Wage Taxes which it claims were due from the defendant and unpaid by him for the years 1971, 1972 and 1973. During this time period, the Defendant was employed by the U.S. Naval Air Engineering Center at the Philadelphia Naval Base on League Island in Philadelphia, Pennsylvania. At all times during this period and subsequent to it, Defendant has been a resident of New Jersey. At no time did he reside in Philadelphia, nor work elsewhere in Philadelphia.

The Complaint was served on the Defendant pursuant to Pa. Rules of Civil Procedure 2079(a), and under the Pennsylvania Long Arm Statute, 42 P.S. §8301 et seq. The Sheriff effected service by sending copies of the Complaint to the Secretary of the Commonwealth by registered mail and to the Defendant by certified mail at his residence in New Jersey.

Defendant, in challenging this jurisdiction of the Court over him, and the service of process on him, has raised the issues of whether or not he was "doing business" under the Pennsylvania Long Arm Statute, 42 P.S. §8301

et seq., and whether or not Due Process of law has been violated.

First, the Philadelphia Naval Base on League Island, although a federal enclave, is within the boundaries of the City of Philadelphia and is a part of the city. *Kiker v. Philadelphia*, 346 Pa. 624, 633 (1943); *First Hardin Nat. Bank v. Fort Knox Nat. Bank*, 361 F.2d 276 (1966) Cert. Den. 87 S. Ct. 394, 385 U.S. 959. However, when Pennsylvania ceded the land for the Naval Base to the United States, 74 P.S. §120.46, it also ceded, pursuant to Art. I, §8, Cl.7 of the United States Constitution, exclusive legislative jurisdiction over the area to the Federal Government. The Commonwealth reserved with this transfer, concurrent jurisdiction for the service of its process, both civil and criminal, on the land so ceded, and retained all constitutionally permissible powers of taxation. 74 P.S. §120.47-49.

The States have had the power to impose and collect taxes from individuals working on or residing on a federal enclave since the passage of the *Buck Act*, 4 USCA §106, in 1941. This section of the Act provides:

> "(a) No person shall be relieved from liability for any income tax levied by any State, or by any duly constituted taxing authority therein, having jurisdiction to levy such a tax, by reason of his residing within a Federal area or receiving income from transactions occurring or services performed in such area; and such State or taxing authority shall have full jurisdiction and power to levy and collect such tax in any Federal area within such State to the same extent and with the same effect as though such area was not a Federal area.
>
> (b) The provisions of subsection (a) shall be applicable only with respect to income or receipts received after December 31, 1940."

Under this Act, Philadelphia has the jurisdiction and authority to impose and collect its City Wage Tax, 19-1500

et seq., *The Philadelphia Code*, from non-Pennsylvania resident workers on the Naval Base. See *Kiker v. Philadelphia, supra*, 632-633; *Application of Thompson*, 157 F. Supp. 93, 97 (E.D.Pa., 1957).

Defendant argues that the language of the Act, i.e., "and collect such tax *in* any Federal area" (Emphasis Added) limits such collection to the Federal area, and that the collection of taxes through service of a Complaint pursuant to a long-arm statute, would be an improper extension of the *Buck Act*. Our reading of the Act, however, would indicate that it is permissive, i.e. merely giving the states the power to tax individuals on an enclave and giving the states an additional and necessary means to enforce the tax by allowing the collection of it on the Federal area. The Act is not intended to prevent the states from using already existing methods at its disposal, such as long-arm statutes, for collecting these taxes.

Service in this case was made pursuant to Pennsylvania's long-arm statute, supra, as Defendant resides in New Jersey and no longer works in Philadelphia. The applicable sections of the statute provide in part:

> "§8304 *Doing Business By Individuals* — Any non-resident of this Commonwealth who . . . shall have done any business in this Commonwealth on or after August 30, 1970, . . . shall be conclusively presumed to have designated the Department of State as his agent for the receipt of service of process in any civil action or proceeding instituted in the Courts of this Commonwealth against such individual, if and only if at the time the cause of action accrued or the harm or financial loss occurred, the non-resident . . . shall have been doing any business within this Commonwealth as heretofore provided."

Section 8309 defines "doing business" as follows:

> "Acts Affecting Jurisdiction — (2) The doing of a single act in this Commonwealth for the purpose of thereby realizing pecuniary benefit or otherwise accomplishing an object with the intention of initiating a series of such acts."

There is no merit to Defendant's argument that he was not working within Pennsylvania. See *Kiker v. Philadelphia, supra*. Defendant further argues that, if found to have been working within Pennsylvania, that he was merely "employed" and not "doing business" as the statute requires. Defendant cites two cases in support of his position, neither of which is applicable to the case at Bar.

In *Branch v. DePaul*, 397 Pa. 98 (1959) and in *Sharp v. Valley Forge Medical Center*, 422 Pa. 124 (1965), service was made by leaving the Complaint at the Defendant's place of employment. Our Supreme Court held that for purposes of effecting service, a person's place of employment was not the same as his place of business. The reasoning behind this is readily apparent: it is much more likely that a defendant will receive the complaint, if not personally served, if it is left at his residence or place of business which he owns or operates, rather than at the place where he is only employed. This was especially true in the two cited cases where the place of employment of each defendant was a very large complex.

The distinction argued by the Defendant is not warranted by the language of the statute, nor does it appear that such a distinction was intended by the Legislature. Additionally, the recent amendments to the Act indicate that the Legislature intended to extend the Court's jurisdiction to the farthest reaches allowable under the Due Process provision of the Constitution. Defendant's activities in Pennsylvania clearly fall within the definition of "doing business" as defined in 42 P.S. §8309.

Defendant lastly argues that, because of the federal government's jurisdiction over the Naval Base, this Court's exercise of personal jurisdiction over him would be a violation of Due Process of law.

The United States Supreme Court has held that in acquiring in personam jurisdiction over a Defendant not within the forum state, the requirement of due process would be met if the Defendant had certain "minimum contacts" with the forum state, and if the "traditional notions of fair play and substantial justice" were not offended. *International Shoe Co. v. Washington*, 326 U.S. 310, 316, 66 S.Ct. 154 (1945). In *McGee v. International Life Insurance Co.*, 355 U.S. 220, 78 S.Ct. 199 (1957), the Supreme Court held that one insurance contract issued in the forum state was sufficient to establish the court's jurisdiction over the Defendant, and that due process was not violated. In *Hanson v. Denckla*, 357 U.S. 235, 253, 78 S.Ct. 1228 (1958), the Supreme Court added that the due process clause required a Defendant to have taken advantage of "the privilege of conducting activities within the forum state thus invoking the benefits and protections of its laws."

The Court in *Proctor & Schwartz, Inc. v. Cleveland Lumber Co.*, 228 Pa. Super. 12, 19 (1974), in determining that the "minimum contacts" were present, set forth the following test:

> "First, the Defendant must have purposefully availed itself of the privilege of acting within the forum state thus invoking the benefits and protections of its laws . . . Secondly, the cause of action must arise from Defendant's activities within the forum state . . . Lastly, the acts of the Defendant must have a substantial enough connection with the forum state to make the exercise of jurisdiction over it reasonable."

While the enclave falls under federal jurisdiction, the Defendant is nevertheless protected by some of Pennsylvania's laws. Because of the difficulties that can result from the disappearance of state law in a federal area, remedial congressional legislation has frequently been passed for the retention of state law. Such provisions have

been made, for example, for actions for wrongful death or personal injury. See *Brennan v. Shipe*, 414 Pa. 258 (1964) and 16 U.S.C.A. §457.

With respect to additional benefits and protections received by non-resident taxpayers at the Naval Base, and as to minimal contacts, the Supreme Court of Pennsylvania has stated in *Kiker v. Philadelphia, supra*, 632, 633:

> "When the State does make such reservation in its act of cession, the obligation of furnishing protection and benefits to the persons and property within the confines of the ceded area impliedly remains in the State . . .
>
> There is no doubt that after the cession, Philadelphia was obligated to confer all the usual attributes of government—the same as those possessed by residents and citizens of Philadelphia—upon those deriving income from working on League Island; fire and police protection, the right to use all municipal facilities, etc. This obligation can be called into play at any time the national government refuses or neglects to furnish them . . .
>
> Plaintiff may at all times use the streets, bridges and other facilities of the City, and also has the benefit of protection of its police and fire departments when engaging in business or pleasure in that municipality, as well as many other advantages. It is common knowledge that the City of Philadelphia cuts all ice, and keeps the Delaware River navigable from the northern limits of the City to Chester, wherein the winter months navigation would otherwise be closed, making possible to plaintiff the transportation he uses to go to and return from League Island to his home in New Jersey. This is decidedly a benefit to him."

It is clear from the foregoing that the Defendant, by his taking advantage of the privilege of working in Philadelphia, has shown the "minimal contacts" necessary to satisfy the Due Process requirement. Further, in view of these contacts, it is quite reasonable for this Court to extend its jurisdiction over the Defendant and thus in no way offends the Court's traditional notions of fair play and substantial justice.

We have held that this Court has in personam jurisdiction over the Defendant and that the service of the Complaint on him was proper. Accordingly, the Defendant's Preliminary Objections were overruled.

BY THE COURT:

/s/

9/2/75

J.

Appendix C

SUPREME COURT OF PENNSYLVANIA

EASTERN DISTRICT

SALLY MRVOS
Prothonotary

LAURA E. LITCHARD
Deputy Prothonotary

PHILADELPHIA, 19107
June 15, 1977

Kenneth E. Aaron, Esq.,
Casper, Davidson, Rutstein & Aaron
Suite 935 Lafayette Building
Phila., Pa. 19106

In re: City of Philadelphia v.
John E. Bullion, Petitioner
No. 2957 Allocatur Docket

Dear Mr. Aaron:

This is to advise you that the Supreme Court has entered the following Order on the Petition for Allowance of Appeal in the above-captioned matter:

"June 10, 1977

Petition Denied
Per Curiam"

Very truly yours,

/s/
Sally Mrvos
Prothonotary

SMM:mb
CC: Stewart M. Weintraub, Esq.

Appendix D

IN THE
COMMONWEALTH COURT OF PENNSYLVANIA

CITY OF PHILADELPHIA
v.
JOHN E. BULLION,
Appellant

No. 737 C.D. 1975

NOTICE OF APPEAL

TO THE PROTHONOTARY:

Please be notified that JOHN E. BULLION, Appellant before the Honorable Court, appeals the entire Judgment of the Honorable Court of February 8, 1977, in the above captioned matter to the Supreme Court of the United States. This appeal is taken under 28 U.S.C. §1257(2).

/s/

By
Kenneth E. Aaron
Attorney for Appellant
Suite 935 Lafayette Building
Philadelphia, Pennsylvania 19106
(215) 629-1100

Filed: August 3, 1977

Appendix E

42 Pa. C.S. §8304. Doing business by individuals

Any nonresident of this Commonwealth who, acting individually under or through a fictitious business name, or through an agent, servant or employee, shall have done any business in this Commonwealth on or after August 30, 1970, or a resident of this Commonwealth who shall have done business in this Commonwealth on or after August 30, 1970 and thereafter shall have become a nonresident of this Commonwealth or shall conceal his whereabouts, shall be conclusively presumed to have designated the Department of State as his agent for the receipt of service of process in any civil action or proceeding instituted in the courts of this Commonwealth against such individual, if and only if at the time the cause of action accrued or the harm or financial loss occurred, the nonresident or the resident who shall thereafter have become a nonresident, shall have been doing any business within this Commonwealth as heretofore provided. 1972, Nov. 15, P.L. 1063, No. 271, §8304, eff. in 90 days.

42 Pa. C.S. §8307. Procedure for service of process

Process directed to persons under this chapter shall be served, by the officer to whom such process shall be directed, upon the Department of State, by sending by registered or certified mail, postage prepaid, a true and attested copy of such process, with the fee required by law, and by sending to the defendant, by registered or certified mail, postage prepaid, a true and attested copy thereof, with an endorsement thereon of the service upon the Department of State, addressed to such defendant at his last known address. The Department of State shall keep a record of the day and hour of the service of such process on it. The registered or certified mail return receipts of the Department of State and of such defendant shall be at-

tached to and made a part of the return of service of such process, except that if the defendant refuses to accept the notice mailed, or cannot be found at his last known address, the registered or certified mail return receipt or other evidence of such facts shall be attached to and made a part of the return and shall constitute sufficient service under the provisions of this section. The fee paid by the plaintiff to the Department of State at the time of the service shall be taxed as costs to the plaintiff, if he prevails in the action necessitating the service of the process. 1972, Nov. 15, P.L. 1063, No. 271, §8307, eff. in 90 days.

42 Pa. C.S. §8309. Acts affecting jurisdiction

(a) General rule.—Any of the following shall constitute "doing business" for the purposes of this chapter:

(1) The doing by any person in this Commonwealth of a series of similar acts for the purpose of thereby realizing pecuniary benefit or otherwise accomplishing an object.

(2) The doing of a single act in this Commonwealth for the purpose of thereby realizing pecuniary benefit or otherwise accomplishing an object with the intention of initiating a series of such acts.

(3) The shipping of merchandise directly or indirectly into or through this Commonwealth.

(4) The engaging in any business or profession within this Commonwealth, whether or not such business requires license or approval by the Commonwealth or any of its agencies.

(5) The ownership, use or possession of any real property situate within this Commonwealth.

(b) Exercise of full constitutional power over foreign corporations.—In addition to the provisions of subsection (a) of this section the jurisdiction and venue of courts of the Commonwealth shall extend to all foreign corporations

and the powers exercised by them to the fullest extent allowed under the Constitution of the United States.

(c) Exception.—Notwithstanding any other provision of this section, for the purposes of determining jurisdiction of courts within this Commonwealth, inspecting, appraising and acquiring real estate and mortgages, and other liens thereon, and personal property and security interest therein, and holding, leasing away, conveying and transferring the same, as fiduciary or otherwise, or collecting debts and enforcing mortgages and rights in property securing the same by any foreign corporation shall not constitute "doing business." 1972, Nov. 15, P.L. 1063, No. 271, §8309, eff. in 90 days.

Appendix F

4 U.S.C. §106. Same; income tax

(a) No person shall be relieved from liability for any income tax levied by any State, or by any duly constituted taxing authority therein, having jurisdiction to levy such a tax, by reason of his residing within a Federal area or receiving income from transactions occurring or services performed in such area; and such State or taxing authority shall have full jurisdiction and power to levy and collect such tax in any Federal area within such State to the same extent and with the same effect as though such area was not a Federal area.

(b) The provisions of subsection (a) shall be applicable only with respect to income or receipts received after December 31, 1940. July 30, 1947, c. 389, §1, 61 Stat. 641.

4 U.S.C. §108. Same; jurisdiction of United States over Federal areas unaffected

The provisions of sections 105 to 110 of this title shall not for the purposes of any other provision of law be deemed to deprive the United States of exclusive jurisdiction over any Federal area over which it would otherwise have exclusive jurisdiction or to limit the jurisdiction of the United States over any Federal area. July 30, 1947, c. 389, §1, 61 Stat. 641.